



**MINUTES OF SPECIAL JOINT MEETING OF THE  
CITY COUNCIL/REDEVELOPMENT AGENCY  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, April 22, 2003, 8:00 p.m.**

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**MEETING**

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Jimenez.

**ROLL CALL**

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,  
Ward, Dowling, Henson  
MAYOR/CHAIR Cooper  
Absent: COUNCIL/RA MEMBER Rodriquez

**PRESENTATION:** Environmental Achievement Awards

Mayor Cooper discussed the annual Environmental Achievement Awards recognitions. She noted that the awards honor individuals and multi-family complexes for their commitment to preserving the environment and enhancing their communities. She commented that the Awards reflect the dedication of the business community, the residents and schools to conserving our natural resources and creating a healthier environment. She then introduced and turned the proceedings over to Council Member Hilson, Chair of the Council's Environment Committee.

Council Member Hilson commented about the quality of the applications. He thanked Waste Management of Alameda County for donating the business award plaques, and a number of restaurants and individuals in the area who contributed to the gift certificates and coordinated this year's awards presentation. Council Member Hilson, Mayor Cooper and Ed Mullins from the Chamber of Commerce presented the awards to the recipients and congratulated all for their efforts.

**PUBLIC COMMENTS**

Jason Moreno commented on safety hazards at Home Depot, the recall petition against Governor Davis, and graffiti issues.

Barbara Swarr discussed present and future developments in the downtown area and the impacts on children related to park and recreation areas.

Holly Souza thanked the Council, staff and the community for support to the Mt. Eden High School Choir. Although she did not attend the concert in New York City, she noted that the performance at Carnegie Hall last Sunday was a wonderful event. She distributed flyers on an upcoming event that will be held at Chabot College on May 13 and promoted a rock a cappella group that will be performing.

**CONSENT**

**DRAFT**

Items 3 and 4 were removed for discussion.

1. Approval of Minutes of the City Council Meeting of April 15, 2003

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried, with Council Member Rodriquez absent, to approve the minutes of the City Council Meeting of April 15, 2003.

2. Gas Tax and Measure B Pavement Rehabilitation 2003-04: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works/Engineering Bauman, dated April 22, 2003, was filed.

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried, with Council Member Rodriquez absent, to adopt the following:

Resolution 03-056, "Resolution Approving Plans and Specifications for the Gas Tax Measure B Pavement Rehabilitation 2003-04 Projects, Project Nos. 5136, 5137, 5138 and 5168, and Call for Bids"

3. Approval of Contract with Kier and Wright for Survey Purposes

Staff report submitted by Redevelopment Director Bartlett, dated April 22, 2003, was filed.

Barbara Swarr asked for clarification on whether this item relates to the park in lieu fees to be discussed later on this agenda and expressed her concerns.

City Manager/Executive Director Armas noted that this item is for engineering survey services. He also reported that the next item on the agenda related to a subdivision agreement for which the park in lieu fees have already been paid.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and carried, with Council/RA Member Rodriquez absent, to adopt the following:

RA Resolution 03-08, "Resolution Authorizing the Executive Director to Execute a Contract for Survey Services with Kier & Wright Civil Engineers & Surveyors, Inc. for the Cannery Area, the Property at B and Foothill Boulevard and Municipal Parking Lot Two"



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4. Final Tract Map 7248 - R.V. Development Company, Inc., a California Corporation (Subdivider) - Approval of Final Map and Authorize the City Manager to Execute a Subdivision Agreement

Staff report submitted by Development Review Services Engineer Gaber, dated April 22, 2003, was filed.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried, with Council Member Rodriquez absent, to adopt the following:

Resolution 03-059, "Resolution Approving Final Map for Tract 7248 and Authorizing the City Manager to Execute a Subdivision Agreement"

5. Authorization to Acquire 231 C Street

Staff report submitted by Redevelopment Director Bartlett, dated April 22, 2003, was filed.

It was moved by Council/RA Member Dowling, seconded by Council/RA Member Henson, and carried, with Council/RA Member Rodriquez absent, to adopt the following:

RA Resolution 03-06, "Resolution Authorizing the Acquisition of 231 C Street"

RA Resolution 03-07, "Resolution Amending Resolution No. RA 02-09, the Budget Resolution for the Redevelopment Agency of the City of Hayward for Fiscal Year 2002-2003, Relating to a Supplemental Appropriation to be Used for Acquisition of the Premises at 231 C Street"

6. Revised Administrative Fees for the Residential Rental Housing Inspection Program

Staff report submitted by Director of Community and Economic Development Ehrenthal, dated April 22, 2003, was filed.

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried, with Council Member Rodriquez absent, to adopt the following:

Resolution 03-057, "Resolution Amending the Master Fee Schedule to Revise Fees and Penalties for Administration of the Residential Rental Inspection Ordinance"

7. Approval of Amendment to Professional Services Contract with Smith, Watts and Company in Connection with the Route 238 Improvement Project

Staff report submitted by City Manager Armas, dated April 22, 2003, was filed.

It was moved by Council Member Dowling, seconded by Council Member Henson, and carried, with Council Member Rodriguez absent, to adopt the following:

Resolution 03-058, "Resolution Authorizing the City Manager to Execute an Amendment to the Agreement with Smith, Watts and Company for Additional Professional Services in Connection with the 238 Corridor Improvement Project"

## **HEARINGS**

8. Consideration of Redesign of Project - Zone Change No. PL-2001-0300, Variance No. PL-2002-0253, and Tentative Tract Map No. 7261 - Samah Construction, Inc. (Applicant/Owner) - Request to Subdivide a 23,086-Square-Foot Parcel to Create 7 Townhouses and Change the Zoning from Commercial Office (CO) District to Planned Development (PD) District - The Property is Located on Tennyson Road at East 12 Street

Staff report submitted by Planning Manager Anderly, dated April 22, 2003, was filed.

Planning Manager Anderly made the presentation of the redesign, noting the differences from the design submitted last July, which was not approved by Council. The design is now a contemporary design rather than the Spanish style. There are changes in the roof design, balconies that are now covered and some redesign in the group open space area. She responded to Council's questions related to parking on the adjacent streets as well as the traffic impacts of a seven-unit project.

Council Member Jimenez commented that the developer was generous to lessen the number of units that are permitted within this zoning district.

Mayor Cooper opened the public hearing at 8:43 p.m.

Noor Wais, developer, described the changes in the elevation, and the roofline. He noted they added more articulation to the project, further landscaping and enough parking spaces to be in compliance. The developer thanked the Planning Department and asked for support of this project.

Mayor Cooper closed the public hearing at 8:44 p.m.

Council Member Henson said he thought the developer had done more than an adequate job of addressing council concerns. He said he still had some concerns about the parking in the area, however, it is a transit-oriented project and so he would relent on that point. He said he would support the project.



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It was moved by Council Member Jimenez, seconded by Council Member Dowling, and carried unanimously, with Council Member Rodriguez absent, to introduce and adopt the following:

Introduce Ordinance 03-\_\_, “An Ordinance Amending the Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located at 28422 East 11<sup>th</sup> Street Pursuant to Zone Change Application No. 2001-0300”

Resolution 03-060, “Resolution Approving Tentative Tract Map No. 7261, Zone Change Application No. 2001-0300, and Variance Application No. PL-2002-0253, Conditionally Approving the Preliminary Development Plan and Certifying that the Initial Study and Negative Declaration Have Been Completed in Compliance with the California Environmental Quality Act”

## **LEGISLATIVE BUSINESS**

### **9. Revisions of Park In Lieu Fees Ordinance**

#### **A. Adoption of Park In Lieu Fees Ordinance (*continued from 4/15/03*)**

Staff report submitted by City Clerk Reyes, dated April 22, 2003, was filed.

City Manager Armas made a brief staff report. He noted that staff contacted the Hayward Area Recreation and Park District (HARD), and representatives of HARD were in attendance. He stated that if Council were to change back to a phasing in of fees, a new ordinance would have to be introduced.

Council Member Jimenez recommended introducing the new ordinance

Mayor Cooper opened the public hearing at 8:48 p.m.

Lou Andrade, President of Hayward Area Recreation and Park District Board, noted that because the State Educational Revenue Augmentation Fund (ERAF) has impacted the District so completely, the Board supports the full fee implementation to be adopted immediately rather than having a phase-in period. He enumerated the need for financing community centers, school parks and various park facilities. He noted that the fees are used in the general area of the developments that pay the fees.

Council Member Jimenez asked whether the District would be amenable to a phase in for the in-lieu fee dollars.

**DRAFT**

Mr. Andrade explained that they would live with whatever they could receive. However, a phase-in of the fees would cost the District a significant amount of money.

Council Member Dowling appreciated HARD's position on the full implementation of the fees. He asked what the full fee would provide as far as recreation services. He noted that Hayward is 'under-parked' and asked Mr. Andrade to discuss that issue.

Mr. Andrade commented that the District is an older district and described the size and number of projects. With the \$500,000 they would lose through the phase-in, they could propose new parks and further recreation improvements.

Council Member Ward asked about the new rates, which would take effect in two years. He asked Mr. Andrade if HARD has ever received such a large amount of fees such as was suggested.

Council Member Hilson asked how this would impact the proposed HARD improvements.

Mr. Andrade stated that new projects for the District have used state bond funding, but that is diminishing.

Council Member Jimenez asked about the area the District covers and whether money generated through the City in-lieu fees could be used elsewhere in the District.

Mr. Andrade explained that the money could only be used within the area from which it came and with City Council approval.

City Manager Armas clarified further that there are five zones within the City and these funds must be used within the zones where the development occurs. When a HARD project is community-wide, such as Skywest Golf Course or the Kennedy Park area, then fees can derive from all of the zones.

Council Member Henson asked about the facilities fee as well.

City Manager Armas delineated the difference between a facilities fee, from which many other cities derive income, and might be entertained in the future by the City of Hayward after further study, and the in-lieu fee which is in place right now.

Council Member Ward asked City Manager Armas to discuss the fee impact in relation to the forthcoming inclusionary housing fees.

City Manager Armas said there would be a substantial increase in the new customer hook-up fees in the future and possible future inclusionary fees for new construction.

Scott Raty spoke on behalf of the Chamber of Commerce and noted that many members participate in the HARD Foundation and appreciated HARD's financial constraints. These are not robust times economically so he strongly urged the staff recommendation of a phase-in of the fees.



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Council Member Hilson contrasted the in-lieu fee of \$6,000 with the possible inclusionary fee of \$100,000 per unit. He noted that staff was not discussing a phase-in of this fee.

Mr. Raty commented that the cumulative affect of all the increases in fees when passed along to the consumer would be rather substantial. He stated that in these economic times, the City of Hayward should be encouraging infill projects and in particular those smaller developments.

Barbara Swarr inquired about the exemptions that are applied to development of redevelopment housing.

City Manager Armas explained that there are no exemptions for redevelopment projects. He noted that there had been exemptions in the downtown redevelopment area. This new ordinance recommends the deletion of the redevelopment area exemptions.

Mayor Cooper closed the public hearing at 9:15 p.m.

Council Member Dowling moved, seconded by Mayor Cooper, to continue with the adoption of the previously introduced ordinance.

Council Member Dowling noted that this is a one-time fee, not comparable to those charged at any facility per use. He commented that the City of Hayward has been behind what other cities are charging. He noted that these fees will be passed on to the buyers and will not hurt the developers. He emphasized the possibilities, which would be lost if the fees are phased in rather than implemented at once.

Council Member Henson said he supported HARD's request for the increase of the in-lieu fees. However, he noted the number of fees and the cumulative effect of these on both the developer and buyer. He said he would support the phasing of the increase, a more moderate approach, rather than the immediate increase.

It was moved by Council Member Dowling, seconded by Mayor Cooper and Council Member Hilson, and failed by the following roll call vote to adopt the following:

Ordinance 03-\_\_, "Ordinance Revising Article 16 of Chapter 10 of the Hayward Municipal Code for the Park Dedication In-Lieu Fees"

AYES: Council Members Hilson, Dowling,  
Mayor Cooper  
NOES: Council Members Jimenez, Ward, Henson  
ABSENT: Council Member Rodriquez  
ABSTAINED: None

B. Introduction of Ordinance

Staff report submitted by City Manager Armas, dated April 22, 2003, was filed.

No action was taken on Item 9B.

City Attorney O'Toole informed the Council that the Council Handbook provides that when an item results in a tie vote, it must be continued to the next regular Council Meeting.

**COUNCIL REPORTS**

There were no Council Reports.

**ADJOURNMENT**

Council Member Jimenez adjourned the meeting at 9:24 p.m., in memory of Don Swartz, a chiropractor in the City of Hayward. Council Member Dowling also adjourned this meeting in memory of Fran Erwin, a local artist, active in the Hayward Art's Council. Her nine children attended St. Bede's School as well as Moreau High School.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward  
Chair, Redevelopment Agency

ATTEST:

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Angelina Reyes, City Clerk, City of Hayward  
Secretary, Redevelopment Agency